

State of Vermont
Department of Education

In re:) Special Education Due Process Hearing
) Docket No. DP05-15
)
) ORDER THAT DISTRICT'S EVALUATION OF
) STUDENT WAS APPROPRIATE

The Springfield School District conducted a three year evaluation of the student in 2004. At an eligibility meeting held on December 15, 2004, the Evaluation and Planning Team (EPT) determined that the student was not eligible for special education. The parents of the student requested an independent evaluation of the student paid for by the District by letter dated December 20, 2004. The District denied this request in a letter to the parents dated January 21, 2005. However, neither the District nor the parents filed for due process at that time.

The parents filed an Administrative Complaint against the District on April 11, 2005. In a decision dated June 9, 2005 the Commissioner of Education, inter alia, directed the District to either provide an independent evaluation of the student or file a request for due process regarding the sufficiency of its 2004 evaluation. The District filed the instant request for due process on June 17, 2005.

Consideration of the matter was delayed for several

weeks due to the parents' requests for additional time to obtain an attorney and then to schedule mediation.

Following advice from the parties that mediation would not occur and that the parents would not be represented by an attorney, the hearing officer, by memo dated August 8, 2005, directed the parties to file copies of any documents, evidence, and arguments they wished to have considered in this matter by August 19, 2005. A status conference by phone was scheduled on August 26, 2005. The parties did submit their evidence and arguments, and a telephone status conference was held on August 26, 2005.

Based on the parties submissions, including the findings and conclusions of the Commissioner pursuant to the parents' Administrative Complaint, there is no question that the District's 2004 evaluation of the student was extensive and thorough, and that the EPT duly considered all the information provided both by its own evaluators and by the parents from the student's doctors. At the status conference the parents admitted that their request for an independent evaluation was based on their disagreement with the conclusion of the EPT in December 2004 regarding the student's eligibility for special education. The parents were unable to point to anything in the record to support

an allegation that the evaluation itself was incomplete or insufficient, or that it did not conform to the student's evaluation plan. In essence, it is clear that the parents are seeking an evaluation that will agree with their assessment of the student's eligibility for special education.

At the status conference the hearing officer advised the parents that if they disagreed with the outcome of the student's evaluation in December 2004, they could obtain an independent evaluation at their own expense that the District would be required to consider. The parents were also informed that they could initiate due process to challenge the EPT's eligibility decision and any aspect of the student's past and ongoing program and placement, including a request for further evaluation at District expense if it could be shown that the student's condition has changed since December 2004. (The hearing officer has been informed that the parents subsequently filed such a request with the Department of Education.)

At this point, however, based on the records submitted by the parties and the findings of the Commissioner pursuant to the parents' Administrative Complaint, there is no question that the District's three year evaluation of

the student in 2004 met all the requirements of the regulations regarding planning, notice, scope, sufficiency, and documentation. See Vermont Special Education Rule § 2362.2.4. Therefore, it must be concluded that the District's 2004 evaluation was "appropriate" and that the parents at this time are not entitled to an independent evaluation of the student at District expense. VSE Rule § 2362.2.7(g).

So ordered.

Date

Daniel Jerman, Hearing Officer

Parties have a right to appeal this hearing decision by filing a civil action a federal district court or a state court of competent jurisdiction pursuant to 20 U.S.C. § 1415(e) and 34 C.F.R. § 300.512, which must be commenced within 90 days of the date of this decision.